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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3008 of 2019

and

C.M.P.No.16252 of 2019

The Divisional Manager,  
IFFCO-TOKIO General Insurance Company Limited,  
Puducherry. .. Appellant/R2

Vs.

1.Geetharani  
2.Minor. Ananth  
3.Minor. Parthiban  
4.Minor. Charanshree ..R1 to 4/Petitioners  
(Minor respondents 2 to 4 are represented by their  
Mother, Geetharani, 1<sup>st</sup> respondent herein)  
5.Chandrasekaran ..R5/R1

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.01.2019 made in M.C.O.P.No.332 of 2017 on the file of the Motor Accidents Claims Tribunal, III Additional District Judge (FAC), Puducherry.

For Appellant : Mr.S.Arunkumar

For RR 1 to 4 : Mr.T.Ananthasekar

For R5 : No appearance

J U D G M E N T

The matter is heard through "Video Conferencing/Hybrid mode".

2.This Civil Miscellaneous Appeal has been filed to set aside the award dated 24.01.2019 made in M.C.O.P.No.332 of 2017 on the file of the Motor Accidents Claims Tribunal, III Additional District Judge (FAC), Puducherry.

3.The appellant is the 2<sup>nd</sup> respondent in M.C.O.P.No.332 of 2017 on the file of the Motor Accidents Claims Tribunal, III Additional District Judge (FAC), Puducherry. The respondents 1 to 4 filed the said claim petition, claiming a sum of





highly excessive and prayed for setting aside the award passed by the Tribunal.

8. Per contra, the learned counsel appearing for the respondents 1 to 4 contended that the deceased was a Sofa Lining Worker in Bahrain and was earning a sum of Rs.50,000/- per month. The Tribunal erroneously fixed a meagre amount of Rs.8,000/- per month as notional income of the deceased and awarded lesser amount as compensation for loss of dependency. In view of the same, the total compensation awarded by the Tribunal is not excessive and prayed for dismissal of the appeal.

9. Though notice has been served on the 5<sup>th</sup> respondent and his name is printed in the cause list, there is no representation for him, either in person or through counsel.

10. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents 1 to 4 and perused the entire materials on record.

11. It is the case of the respondents 1 to 4 that the deceased was a Sofa Lining Worker in Bahrain, aged 45 years and was earning a sum of Rs.50,000/- per month at the time of accident. Except filing Ex.P11/passport of the deceased, the respondents 1 to 4 have not filed any document with regard to avocation and income of the deceased. In the absence of any material evidence with regard to avocation and income, the Tribunal fixed a sum of Rs.8,000/- per month as notional income of the deceased. The accident occurred in the year 2017 and the notional income fixed by the Tribunal is meagre. In view of the same, the excess amount of Rs.3,00,000/- awarded by the Tribunal towards loss of love and affection to respondents 2 to 4 is not interfered with. The Tribunal considering the entire materials on record, has awarded a sum of Rs.13,86,000/- as compensation to the respondents 1 to 4, which is not excessive warranting interference by this Court.

12. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.15,40,000/- awarded by the Tribunal as total compensation to the respondents 1 to 4, along with interest and costs is confirmed. The appellant-Insurance Company is directed to deposit 90% of the award amount, i.e., Rs.13,86,000/- along with interest and costs, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.332 of 2017 on the file of the Motor Accidents Claims Tribunal, III Additional District Judge (FAC), Puducherry. On such deposit, the 1<sup>st</sup> respondent is permitted to withdraw her respective share of the award amount as per the ratio of apportionment fixed by the Tribunal along with proportionate



interest and costs after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. The share of the minor respondents 2 to 4 is directed to be deposited in any one of the Nationalized Banks, till the minor respondents 2 to 4 attain majority. On such deposit, the 1<sup>st</sup> respondent, being the Mother of the minor respondents 2 to 4 is permitted to withdraw the accrued interest once in three months for the welfare of the minor respondents 2 to 4. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

krk

To

- 1.The III Additional District Judge (FAC),  
Motor Accidents Claims Tribunal,  
Puducherry.
- 2.The Section Officer,  
VR Section,  
High Court,  
Madras.

+lcc to Mr.S.Arunkumar, Advocate Sr No.16063

C.M.A.No.3008 of 2019

KV (CO)  
PR (09/11/2021)